

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:21-CR-00599-SRC
)	
REGINALD BAGLEY,)	
)	
Defendant.)	

GOVERNMENT'S SENTENCING MEMORANDUM

Comes now the United States of America, by and through its attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Diane E. H. Klocke, Special Assistant United States Attorney for said District, and files its sentencing memorandum.

On December 1, 2022, the Defendant pled guilty to one count of theft of government funds. As part of the plea agreement, the parties agreed that the total offense level was 13, and that the determination of Defendant's criminal history category would be left to the Court. Either party may ask for a sentence that is above or below the guideline range in this case.

On March 17, 2023, Defendant filed a sentencing memorandum requesting that Defendant be sentenced to a term of probation with a condition for a period of home incarceration. DCD 39 P.6. The Government believes this sentence would be sufficient but not greater than necessary to comply with the purposes of sentencing as set forth in 18 U.S.C. §3553(a).

As and for its grounds, the Government states as follows:

1. Defendant's offense level is 13, and Defendant has a criminal history score of zero, establishing a criminal history category of I. DCD 35 P.6.

2. Defendant is 62 years old, with reported diagnoses of high blood pressure and gout, and has been prescribed several medications. DCD 35 P.2, P.8.

3. Pursuant to United States Sentencing Guidelines (USSG) § 5H1.1, “[a]ge may be relevant in determining whether a [sentencing] departure is warranted...[a]ge may be a reason to depart downward in a case in which the defendant is elderly and infirm...”. Moreover, pursuant to USSG § 5H1.4, “[p]hysical condition...may be relevant in determining whether a departure is warranted...[a]n extraordinary physical impairment may be a reason to depart downward...”.

4. Due to Defendant’s age and medical conditions, pursuant to the considerations of USSG §§ 5H1.1 and 5H1.4, the Government believes a downward departure is warranted.

5. Moreover, pursuant to the factors enumerated in 18 U.S.C. §3553(a), the Government believes a sentence of probation with a period of home incarceration would adequately reflect the seriousness of the offense and provide just punishment, afford adequate deterrence to criminal conduct, and protect the public from any further crimes of the defendant. As Defendant has no criminal history, the Government also believes this sentence adequately considers the history and characteristics of the defendant.

WHEREFORE, the United States of America prays that this Honorable Court grant a downward departure and sentence Defendant to an appropriate term of probation.

Respectfully submitted,

SAYLER A. FLEMING
United States Attorney

s/ Diane E.H. Klocke
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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2023, the foregoing was filed electronically with the Clerk of the Court to be served upon all counsel of record.

s/ Diane E.H. Klocke

DIANE E.H. KLOCKE, #61670MO

Special Assistant United States Attorney